

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. BOARD OF MEDICAL EXAMINERS

PREAMBLE

- 1. Sections Affected**
R4-16-303
- Rulemaking Action**
Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-1404(D)
Implementing statute: A.R.S. § 32-1456(B)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 6 A.A.R. 1029, March 17, 2000
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Dominick Spatafora, Regulatory/Public Affairs Administrator
Address: Arizona Board of Medical Examiners
9545 E. Doubletree Ranch Rd.
Scottsdale, Arizona 85258
Telephone: (480) 551-2700
Fax: (480) 551-2701
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
The Board adopted rules which addressed medical assistants earlier this year. The approved rules set forth the activities which a medical assistant is permitted to carry out under the direct supervision of a physician or physician assistant.

Although there was no opposition to the rule prior to the close of the record, there was an oral comment inquiring where a small volume nebulizer (SVN) treatment fit into the rule. Two separate individuals suggested that they would like to see a SVN included in the rule as long as treatments are administered under the direct supervision of a physician or physician assistant. A SVN is a pharmacological agent, or a prescription drug that is mixed with a saline or other solution and administered through a nebulizer. After carefully examining this issue, and receiving input from several physicians across the state, it is apparent that it is a very common practice for medical assistants to administer SVNs. Therefore, the Board agreed with the public comment and attempted to include the administration of SVNs in this rulemaking. However, the Governor's Regulatory Review Council determined that the inclusion of SVNs was a substantive change because the persons affected by and the effects of the final rule differed from those of the proposed rule. The Board agreed. Small volume nebulizers were left out of the rulemaking due to lack of opportunity for

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public comment on the substantive change. Therefore, the Board is now amending the rule to allow medical assistants to administer SVN's.

6. A reference to any study that the agency proposes to rely on in its evaluation of or jurisdiction for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The Board believes that implementation of the proposed rule will be of significant benefit to both physicians and health care consumers. The rule will actually allow physicians to save money. The Board's regulated community will save money because physicians will not have to hire separate respiratory assistants to administer a simple mechanism that most patients can already administer themselves. Rather, medical assistants will be able to continue administering this mechanism as they already do statewide. This in turn will allow physicians to maintain their current fees, therefore, directly benefiting health care consumers. The Board may incur minimal costs to notify its regulated community and interested parties of the amended rule once approved. However, the benefit of amending the medical assistant rules outweighs the costs.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Dominick Spatafora, Regulatory/Public Affairs Administrator

Address: Arizona Board of Medical Examiners
9545 E. Doubletree Ranch Road
Scottsdale, Arizona 85258

Telephone: (480) 551-2700

Fax: (480) 551-2701

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Arizona Board of Medical Examiners will hold an oral proceeding to receive public comments in accordance with A.R.S. § 41-1023. The time, place, and location of the oral proceeding is listed below:

Date: Wednesday, July 19, 2000

Time: 9:00 a.m.

Location: Arizona Board of Medical Examiners
9545 E. Doubletree Ranch Road
Scottsdale, Arizona

Nature: Public Hearing

The Board of Medical Examiners will accept written comments which are received by 5:00 p.m. on July 21, 2000, or which are postmarked by that date. The comment period will end and the record will close at 5:00 p.m. on July 21, 2000.

The Board of Medical Examiners is committed to complying with the Americans With Disabilities Act. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Board staff at (480) 551-2700, ext. 2792. Requests should be made as early as possible to allow time to arrange the accommodation.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

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CHAPTER 16. BOARD OF MEDICAL EXAMINERS

ARTICLE 3. MEDICAL ASSISTANTS

Section
R4-16-303. Authorized Procedures for Medical Assistants

ARTICLE 3. MEDICAL ASSISTANTS

R4-16-303. Authorized Procedures for Medical Assistants

A medical assistant may, under the direct supervision of a physician or a physician assistant, perform the medical procedures listed in the April 1999, Commission on Accreditation of Allied Health Education Program's, "Standards and Guidelines for an Accredited Educational Program for the Medical Assistant, Section(2)(A)(5)(a through c)." The address is 35 East Wacker Drive, Suite 1970, Chicago, Illinois 60601. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State. Additionally, a medical assistant may, under the direct supervision of a physician or physician assistant, administer whirlpool treatments, diathermy treatments, electronic galvanation stimulation treatments, ultrasound therapy, massage therapy, traction treatments, apply Transcutaneous Nerve Stimulation units, ~~and~~ apply hot and cold packs, and administer small volume nebulizers.